IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 1838-M of 2007

DATE OF DECISION : 23.02.2007

Mohinder Singh

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. N.S. Sodhi, Advocate,
for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

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This is second petition filed by Mohinder Singh under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 77 dated 23.6.2000 under Section 15/61/85 of the NDPS Act, registered at Police Station Makhu. His earlier petition was dismissed by this court on September 22, 2006, while passing the following order :-

> "Petitioner Mohinder Singh has filed this petition under Section 439 of the Code of Criminal Procedure for the grant of regular bail in case FIR No. 77 dated 23.6.2000 under Section 15/61/85 of the NDPS Act, registered at Police Station Makhu, District Ferozepur.
>
> I have heard counsel for the parties and gone through the contents of the FIR as well as the order dated 5.6.2006, passed by Special Judge, Ferozepur, whereby bail application of the petitioner has been dismissed.

In the aforesaid case, 50 Kgs. 500 Grams of poppy husk was recovered. The petitioner was declared proclaimed offender on 28.9.2000. Thereafter, he filed a petition for anticipatory bail. His bail application was dismissed by the trial court as well as by this Court on August 13, 2002 in Crl. Misc. No. 33549-M of 2002. In spite of having knowledge of the pendency of the case, petitioner consciously and deliberately did not appear and was declared proclaimed offender and was arrested on 27.1.2006.

Keeping in view the aforesaid facts, I am not inclined to grant regular bail to the petitioner merely on the allegation as made in para 3 of the petition that at one point of time, the petitioner was found innocent, whereas no such order was ever passed, as has been stated by the State counsel after having instructions from Ram Nath ASI.

At this stage, when the court was not inclined to grant the concession of regular bail to the petitioner, counsel for the petitioner stated that he may be permitted to withdraw this petition.

Dismissed as withdrawn."

Counsel for the respondent-State submits that earlier, all the prosecution witnesses were examined, when the petitioner was proclaimed offender and after his surrender, all the prosecution witnesses were to be again examined. After having instructions from Rajinder Singh ASI, counsel for the respondent-State further states that out of eight prosecution witnesses, four have been examined and the remaining four will be examined within a period of four months.

In view of the aforesaid facts, I am not inclined to grant the concession of regular bail to the petitioner at this stage.

Dismissed.

However, trial court is directed to conclude the trial, positively, within a period of five months. In case, the trial is not so concluded, the trial court will consider the prayer of the petitioner for grant of regular bail.

February 23, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**